

Dear Sen. Gaffey, Rep. Fleischmann, and Members of the Education Committee,
Please oppose as I do the provision in Proposed Bill #HB 5425 which seeks to shift the burden of proof to the party requesting a special education hearing. I am the parent of a child with a disability and a special education advocate to other parents. Please be assured, as I have testified to this committee before, how absolutely difficult it is for parents to obtain the necessary evidence to go forward in a complaint against the schools. The natural advantage of schools is great enough, but I do believe that having them as the party that always must prove the appropriateness of their programs is important to quality assurance and fairness to families.

The current law is necessary because school districts are in control of the records, staff, the experts, and have unlimited access to all the information about the program they are providing. As parents, one of our few remaining levelers in the playing field is that the school must prove the appropriateness of its evaluation or program, not that non-expert parents have to prove the contrary. I can tell you from personal experience that it is very, very difficult to get a complete set of records from the school, despite the many laws saying schools have to provide parents with access to records. From my experience, I know that a parent may not know all the records to ask for and the school "forgets" to mention or provide what they have. Schools can use their own teachers as expert witnesses; hire \$400/hour attorneys; have the support of paralegals and law libraries. A parent representing the interests of a child *pro se* does not have these resources available and may not be able to front retainer fee of several thousand dollars to a parent attorney or have confidence in the supposedly "free or low-cost legal services" available. It is impossible to overstate the huge imbalance of power when a parent tries to get a fair hearing.

Please leave the burden of proof with school districts who are supposed to provide the free and appropriate education. There is a fundamentally unfair reason that schools want to shift the burden of proof to the complaining party -- they rarely complain about themselves! Schools *are* the government and have the full force of the rest of the government behind them.

Please keep in this smallest slice of equity for the parent attempting to receive a fair hearing from an impartial officer. Please oppose a change to the burden of proof in Raised Bill No. 5425 - or HB5425.

Thank you,
Linda Talbert

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